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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 787

BERNARD J. AND MARY D. OHLENDORF,
Appellants,

v.

GARNETT AND MARTHA GAYLES,
PYRAMID BLDG. & LOAN ASSOCIATION,
PEARSON SUNDERLAND, JR., PRESIDENT, INDIVIDUALLY
AND T/A SUN LAND CORP.,
Appellees.

ON APPEAL FROM THE COURT OF APPEALS OF THE
STATE OF MARYLAND

JURISDICTIONAL STATEMENT

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PEARSON SUNDERLAND, JR., PRESIDENT, INDIVIDUALLY
AND T/A SUN LAND CORP.,
Appellees.

ON APPEAL FROM THE COURT OF APPEALS OF THE
STATE OF MARYLAND

JURISDICTIONAL STATEMENT

Appellants appeal from the final judgment of the Court of Appeals of the State of Maryland entered on 6 July 1970 which denied Appellants' petition for a writ of certiorari, filed in the Court of Appeals of the State of Maryland on 19 June 1970, to the Baltimore City Court; said Baltimore City Court having entered a verdict on 21 May 1970, said verdict was not embodied in a written opinion, which granted the motions to dismiss for all appellees. The Baltimore City Court conducted the trial on 21 May 1970 as a

result of Appellants' appeal from the People's Court of Baltimore City; said People's Court having summarily dismissed the suit, and Appellant's reason for appeal to the Baltimore City Court amounting to stating a denial of due process of law under the fourteenth amendment of the Constitution of the United States. Appellants were precluded from taking an appeal to the Court of Appeals of the State of Maryland and were required to petition for a writ of certiorari pursuant to Art. 5, Sections 1 and 21 of the Annotated Code of Maryland. Appellants submit this statement to show that this Court possesses jurisdiction and that substantial constitutional questions are presented. See appendix page 1a, re Appellants' appeal to the Baltimore City Court, appendix page 2a re Appellants' petition for a writ of certiorari, appendix page 5a re the order which denied the petition for certiorari, appendix page 6a re Appellants' notice of appeal to this Court, and appendix page 7a re the Annotated Code of Maryland provisions.

OPINION BELOW

The judgment of the Court of Appeals of the State of Maryland which denied Appellants' petition for a writ of certiorari was rendered on 6 July 1979, with Chief Judge Hall Hammond signing the order. No written opinion or memorandum was handed down by the Baltimore City Court or the People's Court of Baltimore City. Aforementioned order which denied Appellants' petition for a writ of certiorari is set forth in the appendix at page 2a.

JURISDICTION

This is an appeal from the denial by the Court of Appeals of the State of Maryland of Appellants' petition for a writ of certiorari, the petition being filed pursuant to the provisions of Art. 5, Sections 1 and 21 of the Annotated Code

of Maryland. The denial by the Court of Appeals of the State of Maryland was entered on 6 July 1970. Notice of Appeal was filed on 4 August 1970. See appendix page 8a re the denial of Appellants' petition for a writ of certiorari, appendix page 6a re the notice of appeal, and appendix page 7a re the Annotated Code of Maryland provisions.

Jurisdiction in the Supreme Court to review the decision of the Court of Appeals of the State of Maryland by direct appeal is conferred by Title 28, United States Code, Section 1257(2). The following decisions sustain the jurisdiction of this Court to review the judgment in this case on direct appeal and to take any required reversal action: Williams, et al. v. Brufy, 102 U.S. 248 (1880); Forney v. Tonle, 1 Black 320 (1862); Skinner v. State of Oklahoma, 316 U.S. 535 (1942); Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966); Yick Wo v. Hopkins, 118 U.S. 356 (1886); Honeyman v. Hanna, 300 U.S. 14 (1937).

THE STATUTE

The validity of the statute, under which appellants were precluded from appealing the Court Below judgment but were required to seek review of the aforementioned judgment by petition for a writ of certiorari, is questioned on this appeal. The statute is set forth in the appendix at page 7a.

QUESTIONS PRESENTED

1. Does the statute, under which appellants were precluded from seeking review of the judgment of the Court below and were required to seek review of the aforementioned judgment by petition for a writ of certiorari, arbitrarily discriminate between different classes of persons in derogation of the equal protection clause of the Fourteenth Amendment of the U.S. Constitution?

2. Does the Baltimore City Court's oral opinion, which made no mention of the law and evidence presented by Appellants but which was based solely on the testimony of a biased witness Cordray, the President of the Appellee Bldg. and Loan Assn., and the refusal by the Court of Appeals of Maryland to review the opinion of the Baltimore City Court amount to discrimination in the administration of the laws and legal proceedings in derogation of Appellants' rights under the equal protection clause of the Fourteenth Amendment of the U.S. Constitution?

3. Is the above mentioned oral opinion of the Baltimore City Court and refusal to review by the Court of Appeals of Maryland so arbitrary and unreasonable as to amount to a denial of due process of law in derogation of Appellants' rights guaranteed by the Fourteenth Amendment of the U.S. Constitution?

4. Is the above mentioned oral opinion of the Baltimore City Court and refusal to review by the Court of Appeals of Maryland so arbitrary as to amount to spoliation of property in derogation of the due process of law rights guaranteed to Appellants under the Fourteenth Amendment of the U.S. Constitution?

5. Does the summary dismissal by the People's Court of Baltimore City and the refusal to review the oral opinion of the Baltimore City Court amount to a denial of due process of law in derogation of the rights guaranteed to Appellants by the Fourteenth Amendment of the U.S. Constitution?

6. Is the verdict entered by the Baltimore City Court, which becomes law through the refusal of the Court of Appeals of Maryland to review the verdict, contrary to the well settled law of the State of Maryland as to amount to a denial of due process of law guaranteed to Appellants by the Fourteenth Amendment of the U.S. Constitution?

7. Is the above mentioned verdict of the Baltimore City Court against the evidence of record so as to amount to a denial of due process of law guaranteed to Appellants by the Fourteenth Amendment of the U.S. Constitution?

8. Does the above mentioned verdict of the Baltimore City Court give license to a principal to permit security to diminish in his hands to the detriment of a guarantor, give license to a purchaser of real property to default without recourse by another who has made a guaranty for the benefit of the purchaser and satisfied the guaranty on default by the purchaser, and give license to intermeddlers to collude with a purchaser to bring about a foreclosure sale in order to purchase at a below market value and below the purchase price in order to turn over a fast profit so as to be against the general welfare of the people of the City of Baltimore and the State of Maryland and in derogation of Appellants' rights guaranteed by the due process of law and the equal protection of the law provisions of the Fourteenth Amendment of the U.S. Constitution?

STATEMENT OF THE CASE

Appellants entered into a contract of sale with Appellees Gayles to purchase real property known as 1352 Homestead Street in Baltimore City for the amount of $9,000.00 subject to an annual ground rent of $96.00. Conditions precedent to settlement for the purchase of the property were the advancing of closing costs by Appellants for the benefit of Appellees Gayles and execution of a guaranty agreement to guaranty to Appellee Building and Loan Association, Mortgagee, an amount of up to $2,500.00 in the event of default by Appellees Gayles and necessitating a foreclosure sale which would result in a deficiency; the guaranty being for the benefit of Appellees Gayles. Appellants fulfilled all conditions precedent, settlement was

held on 11 December 1962, and Appellees Gayles took possession of the aforementioned sale property. After taking possession Appellees Gayles fell into default, but Appellee Building and Loan Association granted a number of extensions of time for payment by Appellees Gayles without any concurrence therein by Appellants; an extension of time even being granted after written notice of 1 July 1965 to Appellees Gayles from Appellee Building and Loan Association to the effect that foreclosure proceeding would be started if full back payment was not received on or before a stated date. The value of the aforementioned property steadily declined from the time of the aforementioned 1 July 1965, when Appellee Building and Loan Association could have and should have foreclosed, to the time of foreclosure proceedings being instituted on 30 March 1966 to Appellants' detriment. The foreclosure sale resulted in a deficiency, and Appellants were required to forfeit $2,500.00 to Appellee Building and Loan Association. The aforementioned sale property was purchased at the foreclosure sale by Appellee Sun Land Corporation; the natural person doing the buying for the corporation being a representative of the employer of Appellee Garnett Gayles and the purchase being made without any prior evaluation of the aforementioned property and as a good will gesture to Appellee Garnett Gayles. Appellants then entered suit in the People's Court of Baltimore City which was summarily dismissed without Appellants being given an opportunity to be heard when Appellants were inadvertently delayed, due to an injury to Appellant Bernard J. Ohlendorf; Appellants arriving approximately ten minutes after the beginning of the court session and after the cause of action had been dismissed. Appeal then was taken by Appellants to the Baltimore City Court for reason that amounts to stating a denial of due process of law under the Fourteenth Amendment of the Constitution of the United States. Trial was

held on 21 May 1970 in the Baltimore City Court which resulted in all Appellees having their motions to dismiss granted; the Court placing great emphasis on testimony of biased witness Cordray, President of Appellee Bldg. & Loan Assn., and completely ignoring the fact that no Appellee controverted liability or case law cited by Appellants in any significant manner, either as a matter of fact or as a matter of law. Moreover, no Appellee cited any case law or in any significant manner disproved Appellants' allegations. On the other hand, Appellants produced evidence and cited law substantiating entitlement to the relief requested by Appellants. Petition for a writ of certiorari was timely filed by Appellants in the Court of Appeals of Maryland on 19 June 1970, and the petition was denied by order of the Court of Appeals of Maryland on 6 July 1970. Appellants then timely filed a notice of appeal to this Court on 4 August 1970 in the Court of Appeals of Maryland and the Baltimore City Court, and this statement is timely filed to respectfully solicit this Court to assume jurisdiction and review the matter in controversy. See appendix page 2a re the petition for writ of certiorari, appendix page 5a re denial of said petition, and appendix page 6a re the notice of appeal.

HOW THE FEDERAL QUESTIONS ARE PRESENTED

The Federal questions sought to be reviewed in this Court were raised in Appellants' petition for a writ of certiorari to the Court of Appeals of Maryland. Appellants' assigned reasons for seeking review by writ of certiorari amounted to contentions that Appellants had been denied the right of due process of law and equal protection of the law guaranteed to them by the Fourteenth Amendment of the U.S. Constitution; the due process deprivation being specifically stated in assigned reasons 1 and 3. See assigned reasons for

seeking review by the Court of Appeals of Maryland beginning on appendix page 4a.

Appellants reiterated their contentions of denial of due process of law and equal protection of law in the Notice of Appeal; the equal protection of the law contention being specifically stated in assigned reason 4. See appendix page 6a and 7a re the notice of appeal.

The validity of Art. 5, Sections 1 and 21, of the Annotated Code of Maryland was questioned in assigned reasons 3 and 4 of appellants' notice of appeal; it not being possible to raise this contention until the Court of Appeals of Maryland had ruled on Appellants' petition for a writ of certiorari. See appendix page 7a re notice of appeal reasons 3 and 4 and the statute involved.

The contention that the verdict of the Baltimore City Court and the refusal to review said verdict by the Court of Appeals of Maryland was against the public welfare was raised in assigned reason 2 of the notice of appeal; it not being possible to raise this contention until the Court of Appeals of Maryland had ruled on Appellants' petition for a writ of certiorari. See appendix page 6a.

THE QUESTIONS ARE SUBSTANTIAL.

In *Harper, et al. v. Virginia State Board of Elections, et al.*, 383 U.S. 671 (1966), this Court held "* * * We have long been mindful that where fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be closely scrutinized and carefully confined. * * *." Further, this Court held in the aforementioned *Harper* case that "* * * The equal protection cases carefully analyzed boil down to the principle that distinctions drawn and even discriminations imposed by state laws do not violate

the Equal Protection Clause so long as these distinctions are not 'irrational,' 'irrelevant,' 'unreasonable,' 'arbitrary,' or 'invidious.' * * *."

In *Yick Wo v. Hopkins*, 118 U.S. 356 (1886), this Court held, "* * * there should be no arbitrary deprivation of life or liberty, or arbitrary spoliation of property, but that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights; that all persons should be equally entitled to pursue their happiness, and acquire and enjoy property; that they should have like access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; that no impediment should be interposed to the pursuits of any one, except as applied to the same pursuits by others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition; and that, in the administration of criminal justice, no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses. * * * Class legislation, discriminating against some and favoring others, is prohibited; * * *".

In *Honeyman v. Hanan*, 300 U.S. 14 (1937), this Court held "* * * In the exercise of our appellate jurisdiction we have power not only to correct errors in the judgment under review but to make such disposition of the case as justice requires. * * *"

The record in the instant case is replete with those fundamental rights and liberties being asserted of which this Court has long been mindful; classification of which this Court has recognized must be closely scrutinized; "unreasonable", "arbitrary", and "invidious" distinctions which

this Court has recognized as violative of the Equal Protection Clause; arbitrary spoliation of property which this Court has recognized as violative of the Fourteenth Amendment of the U. S. Constitution; and the failure of courts of this country to protect Appellants' property, to redress wrongs of which Appellants have been aggrieved, and to enforce Appellants' contracts which this Court has recognized as violative of the Fourteenth Amendment of the U. S. Constitution so that no reasonable man could deny this Court's right and obligation to exercise the power of appellate jurisdiction to correct errors in the judgment of the Court below and make such disposition of the instant case as justice requires.

I.

VALIDITY OF THE STATUTE

In the instant litigation, Appellants chose to bring suit in the People's Court of Baltimore City due to the low dollar value involved ($2,500) and more expedient litigation, as is the custom in Baltimore City. Since Appellants chose to begin litigation in the People's Court of Baltimore City, they were precluded from appeal to the Court of Appeals of Maryland by Art. 5, Section 1 of the Annotated Code of Maryland. Had Appellants chose to initially file suit in one of the courts of the Supreme Bench of Baltimore City, appellants could have taken an appeal to the Court of Appeals of Maryland pursuant to Art. 5, Section 1 of the Annotated Code of Maryland. This statute is clearly an arbitrary discrimination between different classes of persons, those who chose to initiate litigation in the People's Court of Baltimore City and those who initiate litigation in one of the courts of the Supreme Bench of Baltimore City, seeking redress for the same wrongs, which is proscribed by the Fourteenth Amendment of the U. S. Constitution. In view of the above discussed Harper

case holding that such "classifications which might invade or restrain" fundamental rights and liberties "must be closely scrutinized" and the invasion of fundamental rights demonstrated by the record in this case, it is considered that the validity of Art. 5, Sections 1 and 21 of the Annotated Code of Maryland presents a substantial question for review by this Court.

II.

BALTIMORE CITY COURT OPINION AS DISCRIMINATORY IN THE ADMINISTRATION OF THE LAWS AND LEGAL PROCEEDINGS.

Appellants submitted evidence in the Baltimore City Court which proved the facts set forth in the aforementioned Statement of the Case; namely, the contract of sale between Appellants and Appellees Gayles, the guaranty agreement entered into by Appellants with Appellee Bldg. & Loan Assn. for the benefit of Appellees Gayles, default by Appellees Gayles, extensions of time granted to Appellees Gayles by Appellee Bldg. & Loan Assn. without Appellants' concurrence after default by Appellees Gayles, depreciation of the property value which was the security for said guaranty agreement by Appellee Bldg. & Loan Assn. through the improper extensions of time granted to Appellees Gayles by Appellee Bldg. & Loan Assn. to the detriment of Appellants, loss of $2,500 by Appellants due to deduction from Appellants' pass book by Appellee Bldg. & Loan Assn. to satisfy the default by Appellees Gayles by virtue of said guaranty agreement, and purchase at the foreclosure sale of the property involved in said contract of sale by a representative of the employer of Appellee Garnett Gayles for said employer as a good will gesture toward said Garnett Gayles and without prior investigation into the property value or other detail by said representative or his employer.

Appellants cited law of the State of Maryland which showed that an interest in the property sold at the foreclosure sale remained in Appellants through the failure of other parties in interest to make appellants a party to the foreclosure proceeding, that the extensions of time granted by Appellee Bldg. & Loan Assn. were improper and illegal, that the Appellants had a right of redress against Appellees Gayles through their default and the guaranty agreement for their benefit and against appellee Bldg. & Loan Assn. for the improper extensions of time granted without Appellants' concurrence and for allowing the security of the guaranty agreement to depreciate in the hands of the principal (appellee Bldg. & Loan Assn.) when the principal could have and should have instituted foreclosure proceedings but failed to do so, and that Appellants had a right of recourse against Appellee Pearson Sunderland individually and T/A Sun Land Corp. who purchased at the foreclosure sale for reason that said purchaser at the foreclosure sale could have and should have ascertained Appellants' interest in the sale property through a diligent search and was not a bona fide purchaser for value in view of having failed to make said diligent search prior to purchase.

No Appellee successfully controverted the above facts and law, but the Baltimore City Court granted the motion to dismiss proffered by each Appellee.

In view of the above discussed Harper case and the subject matter discussed above re Appellants' question 2, it is considered that the instant case involves violation of the fundamental rights and liberties guaranteed to Appellants by the Fourteenth Amendment of the U. S. Constitution to the extent to amount to a substantial question required to be reviewed by this Court.

III.

OPINION OF THE BALTIMORE CITY COURT A DENIAL OF DUE PROCESS.

The record of the instant case clearly shows that the opinion of the Baltimore City Court was not supported by evidence and there is no reasonable justification for the decision. As held in *Canty v. Board of Education, City of New York*, 312 F. Supp. 254 a decision is "arbitrary" or "capricious" so as to violate due process when it is not supported by evidence or when there is no reasonable justification for the decision. Accordingly, it is considered that Appellants' question 3 is so substantial as to merit review by this Court.

IV.

OPINION OF THE BALTIMORE CITY COURT AMOUNTS TO A SPOLIATION.

It is considered that no reasonable man would deny that a person forfeiting property to satisfy a guaranty agreement for the benefit of another has a right of redress against someone. However, Appellants have forfeited property for the benefit of Appellee Gayles and been given no redress by the courts of this country. Appellants consider this court action to amount to a substantial question re spoliation of property to be worthy of review by this Court.

V.

SUMMARY DISMISSAL BY THE PEOPLE'S COURT OF BALTIMORE CITY A DENIAL OF DUE PROCESS.

A number of postponements were granted after Appellants filed suit. On one occasion when trial was set to proceed, Appellants called the absence of Appellee Bldg. & Loan Assn. representative and its attorney to the attention of the court which resulted in another postponement after the Judge called the office of said attorney. When Appel-

lants appeared ten minutes late on the next date for which trial was set, the case had been summarily dismissed without any effort having been made to even contact Appellants. What could be more arbitrary and violative of due process? There is little doubt that any reasonable man would consider Appellants' question 5 to be other than so substantial as to require review by this Court. See reason 1 set forth in Appellants' petition for a writ of certiorari on page 4a of the appendix.

VI.

VERDICT OF THE BALTIMORE CITY COURT CONTRARY TO THE WELL SETTLED LAW OF THE STATE OF MARYLAND A DENIAL OF DUE PROCESS.

The record in the instant case as discussed in question 2 above clearly demonstrates that the verdict of the Baltimore City Court is contrary to the well settled law of the State of Maryland. In view of the arbitrary verdict as not founded in law and the aforementioned *Honeyman v. Hanan* and *Canty v. Board of Education* cases, it is considered that question 6 is so substantial that this Court should exercise the power of appellate jurisdiction to correct the errors in the record and make such disposition of the case as justice requires. See reasons 4, 5, 6, and 10 set forth in Appellants' petition for a writ of certiorari beginning on page 4a of the appendix.

VII.

VERDICT OF THE BALTIMORE CITY COURT AGAINST THE EVIDENCE OF RECORD A DENIAL OF DUE PROCESS.

The record in the instant case as discussed in question 2 above clearly demonstrates that the verdict of the Baltimore City Court was clearly against the evidence. In view of the arbitrary verdict as not based on substantial evidence and the aforementioned *Honeyman v. Hanan* and *Canty v. Board of Education* cases, it is considered that

question 7 is so substantial that this Court should exercise the power of appellate jurisdiction to correct the errors in the record and make such disposition of the case as justice requires. See reasons 2 and 10 set forth in Appellants' petition for a writ of certiorari beginning on page 4a of the appendix.

VIII.

VERDICT OF THE BALTIMORE CITY COURT AGAINST THE GENERAL WELFARE OF THE PEOPLE A DENIAL OF DUE PROCESS.

In view of reasons 7, 8, and 9 set forth in Appellants' petition for a writ of certiorari beginning on appendix page 4a, the above discussed *Yick Wo v. Hopkins* case, and the well settled mandates of this Court safeguarding the public welfare, it is considered that question 8 is sufficiently substantial to be worthy of this Court's review.

CONCLUSION

For the reasons stated above, it is respectfully solicited that the verdict of the Baltimore City Court and the denial of Appellants' petition for a writ of certiorari by the Court of Appeals of Maryland be summarily reversed, or, in the alternative, jurisdiction over the appeal herein be noted.

Respectfully submitted,

BERNARD J. OSLENDORF,

Attorney for Appellants.

APPENDIX

APPEAL TO THE BALTIMORE CITY COURT

In The People's Court
Of Baltimore City

Case No. 2917 67
Case No. 2766 67

Bernard J. and Mary D. Ohlendorf

Plaintiffs,

v.

Gayles, et al.,

Defendants.

Plaintiffs not having been given an opportunity to be heard at the hearing held on 29 September 1969 and not being apprised of any defense offered by any defendant hereby appeal the determination entered on 29 September 1969 in the record against the Plaintiffs in the above titled case. Please transmit the entire record, including Plaintiffs' brief, to the Baltimore City Court for consideration on appeal.

Respectfully submitted,

PETITION FOR WRIT OF CERTIORARI

In the Court of Appeals of Maryland
From the Baltimore City Court

Case No.	*13778–c* / *9–082614*	*284* / *17PC*	*70*
Case No.	*13767–c* / *9–082638*	*296* / *17PC*	*70*

Bernard J. and Mary D. Ohlendorf,

Plaintiffs,

v.

Gayles, et al.,

Defendants.

Pursuant to Article 5, Section 21 of the Annotated Code of Maryland, Plaintiffs respectfully solicit that the Court require by certiorari that the above titled case be certified to the Court of Appeals of Maryland for review and determination.

The above titled litigation grew out of a contract of sale between Plaintiffs and Defendants Gayles to purchase real property known as 1352 Homestead Street in Baltimore City for the amount of $9,000.00 subject to an annual ground rent of $96.00. Conditions precedent to settlement for the purchase of the property were the advancing of closing costs by Plaintiffs for the benefit of Defendants Gayles and execution of a guaranty agreement to guaranty to Defendant Building and Loan Association, Mortgagee, an amount of up to $2,500.00 in the event of default by Defendants Gayles and necessitating a foreclosure sale which would result in a deficiency; the guaranty being for the benefit of Defendants Gayles. Plaintiffs fulfilled all conditions precedent, settlement was held on 11 December 1962, and Defendants Gayles took possession of the

aforementioned sale property. After taking possession Defendants Gayles fell into default, but Defendant Building and Loan Association granted a number of extensions of time for payment by Defendants Gayles without any concurrence therein by Plaintiffs; an extension of time even being granted after written notice of 1 July 1965 to Defendants Gayles from Defendant Building and Loan Association to the effect that foreclosure proceedings would be started if full back payment was not received on or before a stated date. The value of the aforementioned property steadily declined from the time of the aforementioned 1 July 1965, when Defendant Building and Loan Association could have and should have foreclosed, to the time of foreclosure proceedings being instituted on 30 March 1966 to Plaintiffs' detriment. The foreclosure sale resulted in a deficiency, and Plaintiffs were required to forfeit $2,500.00 to Defendant Building and Loan Association. The aforementioned sale property was purchased at the foreclosure sale by Defendant Sun Land Corporation; the natural person doing the buying for the corporation being a representative of the employer of Defendant Garnett Gayles and the purchase being made without any prior evaluation of the aforementioned property and as a good will gesture to Defendant Garnett Gayles. Plaintiffs then entered suit in the Peoples Court of Baltimore City which was summarily dismissed without Plaintiffs being given an opportunity to be heard when Plaintiffs were inadvertently, delayed due to an injury to Plaintiff Bernard J. Ohlendorf; Plaintiffs arriving approximately ten minutes after the beginning of the court session and after the cause of action had been dismissed. Appeal then was taken to the Baltimore City Court for reasons that amount to stating a denial of due process of law under the fourteenth amendment of the Constitution of The United States. Trial was held on 21 May 1970 in the Baltimore City Court which resulted in all Defendants having their motions to dismiss granted; the Court placing great emphasis on testimony of one witness, a Mr. Cordray, and completely ignoring the fact that no Defendant controverted liability or case law cited by Plaintiffs in any manner, either as a matter of fact or as

a matter of law. Moreover, no Defendant cited any case law or in any manner disproved Plaintiffs' allegations. On the other hand, Plaintiffs produced evidence and cited law substantiating entitlement to the relief requested by Plaintiffs.

Plaintiffs respectfully request that the Court sustain the petition for a writ of certiorari for reasons that:

1. The action of the Peoples Court of Baltimore City summarily dismissing Plaintiffs' cause of action amounted to a denial of due process of law for Plaintiffs.

2. The verdict entered by the Baltimore City Court is against the evidence of record.

3. The conclusion reached by the Baltimore City Court was so arbitrary and capricious as to amount to a denial of due process of law for Plaintiffs.

4. The verdict entered by the Baltimore City Court is counter to the well settled law in the State of Maryland that a guarantor is entitled to exoneration, contribution, or subrogation when his property is taken for the debt of another.

5. The verdict entered by the Baltimore City Court is counter to the well settled law of the State of Maryland that an extension of time to a debtor releases the guarantor from his obligation under the guaranty agreement.

6. The verdict entered by the Baltimore City Court is counter to the well settled law that a party having an interest in a property must be joined as a party in a foreclosure proceeding to cut off his interest in the property.

7. Allowing the verdict of the Baltimore City Court to stand gives license to a principal to permit security in his hands to diminish in value to the detriment of the guarantor.

8. Allowing the verdict of the Baltimore City Court to stand gives license to a purchaser of real property to default without recourse to another making a guaranty for

the purchaser if the purchaser should become dissatisfied with the purchase price subsequent to settlement.

9. Allowing the verdict of the Baltimore City Court to stand gives license to an intermeddler to collude with a purchaser to bring about a foreclosure sale and buy at a foreclosure sale below market value and below the price to which the purchaser is obligated.

10. Plaintiffs presented evidence and cited law establishing entitlement to their claim and no Defendant controverted, as a matter of law or matter of fact, the evidence and law cited by Plaintiffs.

Respectfully submitted,

DENIAL OF PETITION FOR WRIT OF CERTIORARI

In the Court of Appeals of Maryland

Docket No. 123 *70*

Bernard J. Ohlendorf, et ux.,
Plaintiffs,

v.

Gayles, et al.,
Defendants.

Upon consideration of the petition for a writ of certiorari to the Baltimore City Court in the above entitled case, it is

ORDERED by the Court of Appeals of Maryland that the said petition be, and it is hereby, denied.

/s/ HALL HAMMOND,
Chief Judge.

Date: July 6, 1970.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

(Filed 4 August 1970)

In the Court of Appeals of Maryland
And the Baltimore City Court

Case No.	*13778–c* / *9–082614*	*284* / *17PC*	*70*
Case No.	*13767–c* / *9–082638*	*296* / *17PC*	*70*

Bernard J. and Mary D. Ohlendorf,
Plaintiffs,

v.

Gayles, et al.,
Defendants.

Pursuant to 28 U.S.C. 1257, Plaintiffs respectfully solicit that an appeal be entered on their behalf to the Supreme Court of the United States from the order passed on the 6th day of July 1970 by the Court of Appeals of Maryland which denied Plaintiffs' petition for writ of certiorari to the Baltimore City Court in the above titled cases; the appeal being taken for reasons that:

1. Plaintiffs have set forth in the Petition For Writ of Certiorari filed by Plaintiffs in the Court of Appeals of Maryland on 19 June 1970.

2. Denial of Plaintiffs' aforementioned Petition For Writ of Certiorari is against the Public Welfare of the Citizens of Baltimore City in the State of Maryland in violation of the fourteenth amendment of the U. S. Constitution, because said denial permits law made by the Baltimore City Court to stand which permits lending institutions to allow property to depreciate to the detriment of a guarantor to the extent to which an amount has been guaranteed, per-

mits mortgagors to default in payments and not be liable to a guarantor who guarantees an amount for the benefit of said mortgagor, and permits intermeddlers to turn over a fast profit through collusion with mortgagors.

3. Denial of Plaintiff's aforementioned Petition For Writ of Certiorari amounts to a denial of due process of law guaranteed to Plaintiffs by the Fourteenth Amendment of the U. S. Constitution, because they are unable to have their grievance considered on the merits by the highest Court of the state.

4. Denial of Plaintiff's aforementioned Petition For Writ of Certiorari amounts to a denial of equal protection of law guaranteed to Plaintiffs by the 14th amendment of the U. S. Constitution, because Plaintiffs are unable to have their grievance considered on the merits by the highest court of the state as a result of Plaintiffs choice to proceed at the magistrate level; all other lower court decisions in the State of Maryland being reviewable by the Maryland Court of Appeals.

5. Plaintiffs will set forth in the jurisdictional statement required by the Supreme Court of the United States.

Respectfully submitted,

STATUTE INVOLVED

Article 5, Annotated Code of Maryland

Section 1. Any party may appeal to the Court of Appeals from any final judgment or determination of a court of law in any civil suit or action, including a mandamus action, or in any prosecution for the recovery of any penalty or fine or damages; provided, however, that this section shall not be construed to permit an appeal to the Court of Appeals from any judgment or determination entered by a court of law in the proper exercise of its

jurisdiction on appeal from a justice of the peace, people's court or trial magistrate.

* * * * * *

Section 21. In any case in which a final judgment has been rendered by the circuit court of any county or by one of the courts of Baltimore City upon appeal from a justice of the peace, people's court, trial magistrate, or Municipal Court of Baltimore City if it shall be made to appear to the Court of Appeals in the case of a civil action or to the Court of Special Appeals in the case of a criminal action upon petition of any party that a review is necessary to secure uniformity of decision, as where the same statute has been construed differently by the courts of two or more circuits, or that there are other special circumstances rendering it desirable and in the public interest that the case should be reviewed, the Court of Appeals or the Court of Special Appeals, as the case may be, shall require by certiorari or otherwise, any such case to be certified to it for review and determination.